

**REMARKS**

The following remarks are submitted to address the issues raised in the Office Action mailed July 13, 2004.

Claims 1-20, 22, 23, 25-35, 37, and 38-42 are currently pending in the application, claims 39-42 having been added by the foregoing amendment. Claims 1, 3-7, 10, and 12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,540,084 to Silvers (hereinafter "Silvers") in view of U.S. Patent Publication No. 2003/0029740 of Caveness (hereinafter "Caveness") and U.S. Patent No. 4,981,229 to Lanham (hereinafter "Lanham"). Claim 11 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Silvers-Caveness-Lanham as applied to claim 10, and further in view of U.S. Patent No. 5,938,018 to Keaveney et al. (hereinafter Keaveney). Claim 16 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Silvers-Caveness-Lanham as applied to claim 13, and further in view of U.S. Patent No. 6,726,006 to Funderburk et al. (hereinafter "Funderburk"). Claims 22, 23, 25-35, 37, and 38 stand allowed. Claims 2, 8, 9, 17, and 18 stand objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicants respectfully request consideration of the application in view of the following remarks.

**Claims 1, 3-7, 10, and 12 – 35 U.S.C. § 103(a)**

The rejection of claims 1, 3-7, 10, and 12 under 35 U.S.C. 35 U.S.C. 103(a) as being unpatentable over Silvers in view of Caveness and Lanham is respectfully traversed.

Silvers relates to a compact portable pack for carrying diapers, wet baby wipes, and reclosable disposable bags.<sup>1</sup> Caveness relates to compact packaged towels and methods for constructing compact packaged towels.<sup>2</sup> Lanham relates to “an innerseal for a container which is secured to the mouth of the container and which has an integrally formed pull tab and cut-out portions in the circular periphery of the seal to ensure that the entire seal can be removed without tearing.”<sup>3</sup> None of these references relate to cigarettes or to packages for cigarettes.

Applicants have amended claim 1 such that it now relates to a package for cigarettes and comprises a plurality of cigarettes in the first and second compartments of a container body. Applicants have amended claim 2 as one of the limitations of claim 2 was incorporated into amended claim 1. Support for these amendments can be found throughout the specification and in original claim 2, among other places. Amended claim 1 recites a package for cigarettes comprising a container having an internal space for containing the cigarettes, the container comprising: a container body comprising a first side body panel, a second side body panel opposite the first side body panel and a separation member disposed between the first and the second side body panels for dividing the internal space of the container body into first and second compartments, the first compartment having a first opening defined by a first edge of the container body, the second compartment having a second opening defined by a second edge of the container body; a plurality of cigarettes in the first and second compartments; first and second sealing layers removably affixed to the first and second edges of the container body for sealing the cigarettes in the first and second compartments,

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<sup>1</sup> See Silvers, Abstract.

<sup>2</sup> See Caveness, ¶ [0001].

<sup>3</sup> Lanham, col. 1, ll. 6-10.

wherein the internal space of the container is at a pressure less than atmospheric; and a first lid hingedly attached to the first side body panel and a second lid hingedly attached to the second side body panel such that the first and second lids are attached to the container at substantially diametrically opposed attachment points, and wherein the first and second lids cover the first and second openings of the first and second compartments.

As noted above, Silvers, Caveness, and Lanham do not relate to packages for cigarettes and do not disclose that cigarettes can be contained in their containers or packages. Thus, for at least the reason that Silvers, Caveness, and Lanham individually, or in combination, do not teach or suggest a package for cigarettes comprising a plurality of cigarettes in first and second compartments as recited in amended claim 1, Applicants respectfully submit that claim 1 is patentable over Silvers in view of Caveness and Lanham. As claims 3-7, 10, and 12 depend from claim 1 or an intervening dependent claim, Applicants also respectfully submit that claims 3-7, 10 and 12 are patentable.

**Claim 11 – 35 U.S.C. § 103(a)**

The rejection of claim 11 under 35 U.S.C. 35 U.S.C. 103(a) as being unpatentable over Silvers-Caveness-Lanham as applied to claim 11 and further in view of Keaveney is respectfully traversed.

Applicants have previously set forth the deficiencies of Silvers-Caveness-Lanham with regard to claim 10. Keaveney fails to cure these deficiencies. Applicants also respectfully traverse the combination of the cigarette package of Keaveney with the containers or packages of Silvers, Caveness, and Lanham, as those containers and packages do not relate to cigarettes.

Because claim 11 depends from claim 10, Applicants respectfully submit that claim 11 is patentable over Silvers-Caveness-Lanham in view of Keaveney.

**Claim 16 – 35 U.S.C. § 103(a)**

The rejection of claim 16 under 35 U.S.C. 35 U.S.C. 103(a) as being unpatentable over Silvers-Caveness-Lanham as applied to claim 13 and further in view of Funderburk is respectfully traversed.

Applicants have previously set forth the deficiencies of Silvers-Caveness-Lanham with regard to claim 13. Funderburk fails to cure these deficiencies. Applicants also respectfully traverse the combination of the cigarette container of Funderburk with the containers or packages of Silvers, Caveness, and Lanham, as those containers and packages do not relate to cigarettes. Because claim 16 depends from claim 13, Applicants respectfully submit that claim 16 is patentable over Silvers-Caveness-Lanham in view of Funderburk.

**New Claims**

Applicants have added new claims 39-42. Support for these amendments can be found in the original claims, among other places.

New independent claim 39 recites a package for articles comprising a container having an internal space for containing the articles, the container comprising: a container body comprising a first side body panel, a second side body panel opposite the first side body panel and a separation member disposed between the first and the second side body panels for dividing the internal space of the container body into first and second compartments, the

first compartment having a first opening defined by a first edge of the container body, the second compartment having a second opening defined by a second edge of the container body; first and second sealing layers removably affixed to the first and second edges of the container body for sealing the articles in the first and second compartments, wherein the internal space of the container is at a pressure less than atmospheric; and a first lid hingedly attached to the first side body panel and a second lid hingedly attached to the second side body panel such that the first and second lids are attached to the container at substantially diametrically opposed attachment points, and wherein the first and second lids cover the first and second openings of the first and second compartments, wherein the separation member comprises a planar member formed integrally with the body panels, the planar member having opposite surfaces each forming a bottom surface of a respective compartment and including a plurality of parallel protrusions formed on the bottom surface of each compartment.

New claim 39 incorporates the limitations of original claim 8 into the previously presented version of claim 1. The Examiner indicated that claim 8 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Accordingly, Applicants respectfully request that new claim 39 and the claims dependent therefrom be deemed in condition for allowance.

### **Dependent Claims**

In responding to the claim rejections above, Applicants submit that the dependent claims are patentable based on their dependency from independent claims, which Applicants

argue are patentable. Thus, in many instances, Applicants have not provided separate remarks specifically directed to the Examiner's grounds for rejecting the dependent claims. Applicants' failure to comment on or otherwise traverse the Examiner's rejection of the dependent claims should not be viewed as agreement, on the part of the Applicants, with the Examiner's grounds for rejection.

**CONCLUSION**

For the foregoing reasons, a favorable Office Action is respectfully solicited. The Examiner is respectfully invited to contact J. Jason Link at 336.607.7443 or Charles W. Calkins at 336.607.7315 to discuss any matter relating to this application.

Respectfully submitted,

Date:

October 13, 2004



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